

1 KIRBY AND HALLEN  
2 A Partnership Including  
3 A Professional Corporation  
4 7717 Friars Road, Suite 250  
5 San Diego, California 92108  
6 Telephone: (714) 298-1015

7  
8 Attorneys for Plaintiff  
9 McGregor Sea & Air Services (America) Inc.

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF SAN DIEGO

13 MCGREGOR SEA & AIR SERVICES  
14 (AMERICA) INC., A Delaware  
15 Corporation,

16 Plaintiff,

17 vs.

18 CINEMATRONICS, INCORPORATED, A  
19 California Corporation,

20 Defendant.

21 ) CASE NO.

22 ) DECLARATION OF MILTON  
23 ) HALLEN IN SUPPORT OF  
24 ) APPLICATION FOR RIGHT  
25 ) TO ATTACH ORDER

26 -----  
27 I, MILTON HALLEN, declare as follows:

28 1. I am an adult and competent to make this declaration.

Each fact contained in this declaration is based upon my per-  
sonal knowledge as a percipient witness or is based on my per-  
sonal knowledge after having consulted the business records of  
McGregor Sea & Air Services (America) Inc. ("MSAS"). Each busi-  
ness record which is a source of a fact contained in this  
declaration is a writing made in the regular course of our busi-  
ness, made at or near the time of the act, condition or event  
described, the identity of which and mode of preparation of  
which is known to me and as to which the sources of information

1 and method and time of preparation are such as to indicate the  
2 trustworthiness of the document.

3 2. I am employed by MSAS as that entity's San Diego  
4 station manager. Our offices are located within San Diego  
5 County, California.

6 3. At some point in time prior to the first of the trans-  
7 actions which are the subject matter of the verified complaint  
8 on file in this action, a business relationship was established  
9 between Cinematronics, Incorporated ("Cinematronics") and MSAS.

10 4. According to the terms of this relationship, MSAS  
11 began to act as Custom House Broker for Cinematronics.

12 5. Cinematronics is in the business of importing  
13 electronic video game parts from Japan for manufacture within  
14 this country and distribution throughout the United States. I  
15 am familiar with the business operation at Cinematronics by  
16 reason of having been involved in the solicitation of this  
17 account on behalf of MSAS.

18 6. The services which MSAS provided to Cinematronics at  
19 their request consisted of the following: Upon being advised by  
20 its Japanese supplier that a shipment had been delivered in  
21 Japan to an airfreight carrier for transport to the United  
22 States, and upon being provided with the "Air Waybill" number  
23 assigned by the carrier for that shipment, Cinematronics  
24 developed the practice of advising MSAS of the existence of the  
25 shipment, the "Air Waybill" number and the flight information  
26 relating to the arrival of the shipment within the United  
27 States.

28 7. At this point in each transaction, MSAS, at

1 Cinematronic's request, undertook the responsibility of coordi-  
2 nating all efforts necessary to secure the delivery of the ship-  
3 ment to Cinematronics in El Cajon.

4 8. These activities consisted of the preparation of  
5 United States Customs Service forms necessary to reflect an  
6 entry into the United States, payment of duties (taxes) imposed  
7 by Customs in connection with the importation in question, pay-  
8 ment of a bond to Customs to indemnify the United States govern-  
9 ment for an under-valuation or mischaracterization of the goods  
10 imported, arranging for surface transportation from the port of  
11 entry to the El Cajon plant of Cinematronics, Incorporated, and  
12 payment of all "freight collect" charges necessary to secure  
13 delivery of the shipment. Upon completion of all activities in  
14 connection with each individual transaction, invoices were pre-  
15 sented to Cinematronics. Invoices of MSAS are normally payable  
16 upon presentation. As a result of a continuing and developing  
17 relationship between MSAS and Cinematronics, an agreement was  
18 reached to advance duties, freight charges and other expenses on  
19 terms requiring payment of all funds advanced and payment for  
20 services rendered within 15 days after presentation of invoice.

21 9. Each shipment handled by MSAS on behalf of  
22 Cinematronics was handled on an expedited basis. Cinematronics  
23 was invariably concerned with obtaining possession of shipped  
24 goods at the earliest possible moment. Cinematronics advised  
25 shippers in Japan, as well as carriers, to notify MSAS when  
26 shipments were available and ready for delivery.

27 10. Before the first of the transactions which are the  
28 subject matter of the complaint herein, MSAS "handled" a number



1 of successful import shipment transactions on behalf of Cinema-  
2 tronics.

3 11. As to each of the shipment transactions referenced in  
4 the complaint herein, an employee or employees of Cinematronics  
5 contacted our San Diego office and requested that we "handle"  
6 the import shipment transaction in question. Following receipt  
7 by the local MSAS employee of instructions from Cinematronics,  
8 the local San Diego MSAS employee telephoned or otherwise com-  
9 municated with the Los Angeles MSAS office which actually pre-  
10 pared the documentation necessary to effect delivery of the  
11 cargo and successful entry of the shipment through United States  
12 Customs Service.

13 12. As to each of these transactions, MSAS fully dis-  
14 charged all of its duties. In each case, MSAS paid all collect  
15 freight charges, arranged for surface transportation if neces-  
16 sary, paid Customs bonds as required, paid Customs duty as  
17 required, and imposed a fee for its services. The balance now  
18 due and payable by Cinematronics to MSAS is \$87,980.65. No pay-  
19 ment has been made on this account since June 29, 1982.

20 13. On June 29, 1982, the amount of unpaid balance on the  
21 Cinematronics, Incorporated account was \$97,807.13. On June 29,  
22 1982, accompanied by other representatives of MSAS, I visited  
23 Jim Pierce, Chairman of the Board of Cinematronics at his  
24 offices in El Cajon, California.

25 14. On that date, June 29, 1982, Jim Pierce paid  
26 \$10,000.00 against the unpaid balance to MSAS leaving a then  
27 approximate balance of \$87,807.13. On June 29, 1982, both  
28 orally and in writing, Jim Pierce acknowledged a debt by

1 Cinematronics to MSAS of \$87,807.13, and further represented  
2 that Cinematronics was undergoing financial difficulties. At  
3 the June 29, 1982, meeting, Mr. Pierce indicated his hope that  
4 the remaining balance would be paid within 6 months.

5 15. As can be seen by reference to the verified complaint  
6 on file herein, the vast majority of the debt which this appli-  
7 cation for attachment is intended to secure consists of cash  
8 advances made to United States Customs Service and to various  
9 airfreight carriers on behalf of Cinematronics. The portion of  
10 this claim which consists of service charges payable to MSAS  
11 amounts to only \$742.00.

12 16. Employees of Cinematronics have advised MSAS employees  
13 that Cinematronics has fallen delinquent on a repayment obliga-  
14 tion of a major loan in excess of \$2 million. As a result  
15 thereof, Cinematronics employees have advised MSAS employees  
16 that "Chapter 11" proceedings are near at hand.

17 17. This attachment is sought only to secure the claim of  
18 MSAS against defendant.

19 18. On information and belief, I allege that Cinema-  
20 tronics, Incorporated has assets which can be attached to secure  
21 this claim. In support of my statement of information and  
22 belief, I hereby incorporate by reference a June 21, 1982, Dun  
23 and Bradstreet report relating to Cinematronics, Incorporated.

24 19. Your declarant respectfully directs the Court's atten-  
25 tion to page 2 of said report for a Fiscal Statement of Cinema-  
26 tronics, Incorporated dated November 30, 1981, reflecting sub-  
27 stantial cash inventory and receivable assets.

28 I declare under penalty of perjury that the foregoing is

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true and correct.

Executed on August 5<sup>th</sup>, 1982, at San Diego, California.

Milton Hallen  
MILTON HALLEN